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New Regulation on Guidelines on the Provision of Business Licensing Services through the OSS system

Overview

On 1 April 2020, the Investment Coordinating Board (*Badan Koordinasi Penanaman Modal* – “BKPM”) issued BKPM Regulation No. 1 of 2020 on Guidelines on the Provision of Integrated Electronic Business Licensing Services (“BKPM Reg. 1/2020”).

This regulation was issued to improve and streamline the licensing services provided through the Online Single Submission (“OSS”) System, to implement Article 94 (1) of Government Regulation No. 24 of 2018 (“GR 24/2018”) and Presidential Directive (*Instruksi Presiden*) No. 7 of 2019 on the Acceleration of the Ease of Doing Business. Therefore, in addition to the existing BKPM regulations related to the OSS system, BKPM Reg. 1/2020 sets out the norms, standards, procedures, and criteria as guidelines on the issuance of business licenses through the OSS system.

In principle, BKPM Reg. 1/2020 provides guidance for BKPM to administer the newest version of the OSS system, version 1.1. Hence, this regulation acts as an implementing regulation of GR 24/2018 and reinstates certain BKPM policies applied in order to simplify business licensing through the OSS system.

Below is a summary of the key provisions of BKPM Reg. 1/2020.

The Requirement regarding the Value of the Investment and Capital

Article 6 of BKPM Reg. 1/2020 now specifically requires a foreign investment company (PMA) to meet the total investment value of more than IDR10,000,000,000, excluding the value of its land and buildings. The total investment value applies for each line of business categorized under the relevant 5-digit Standard Indonesian Business Classification (*Klasifikasi Baku Lapangan Usaha Indonesia* – “KBLI”) (currently provided in Presidential Regulation No. 44 of 2016).

In addition, BKPM Reg. 1/2020 provides the detailed total investment values which apply to PMA companies engaged in the following sectors:

Business Activities	Total Investment Value
large-scale trading	more than IDR10,000,000,000, excluding land and buildings, for each 2-initial digits of the KBLI.
food and beverage services (as long as it is open for foreign investment)	more than IDR10,000,000,000 (ten billion Rupiah), excluding land and buildings, within one regency/municipality
construction (as long as it is open for foreign investment)	more than IDR10,000,000,000.00 (ten billion Rupiah), excluding land and buildings, for each construction activity.

The above investment and capital values do not apply to PMA Businesses that obtained a valid Investment License before GR 24/2018 came into effect as long as their business activities have not changed.

Main Projects and Supporting Projects

BKPM Reg. 1/2020 now specifically allows a Business Actor to have a supporting project, provided that the Business Actor will not gain revenue from the supporting project and it will only be used to support the main project. This applies to companies engaged in other business activities under a KBLI code that is not stated in their NIB.

Further Provisions on Business Identification Numbers (*Nomor Induk Berusaha* – “NIB”)

Previously, a NIB also simultaneously serves as a company's Company Registration Certificate (*Tanda Daftar Perusahaan* – “TDP”), Importer's Identification Number (*Angka Pengenal Importir* – “API”), and Customs right of access. Through this regulation, BKPM has added another function of a NIB ie, as evidence of the submission of the company's initial Mandatory Manpower Report (*Wajib Laporan Ketenagakerjaan*) for a company that has not submitted its Mandatory Manpower Report and has not previously obtained a NIB.

The Categorization of Business Licenses and Commercial or Operating Licenses

BKPM Reg. 1/2020 introduces new classifications of Business Licenses and Commercial or Operating Licenses, which are now divided into the following types:

License Type	Business License/Commercial or Operating	Description
Type 1	Business License/Commercial or Operating Licenses without completing Commitments	This type of licenses, once issued by the OSS Agency, is effective immediately. The OSS Agency issues these licenses before they become effective.
Type 2	Business License/Commercial or Operating Licenses with technical requirements	
Type 3	Business License/Commercial or Operating Licenses with fee requirements	
Type 4	Business License/Commercial or Operating Licenses with technical and fee requirements	

The above types are in line with the newly issued Minister of Trade Regulation No. 8 of 2020.

Administrative Branch Offices and Foreign Company Representative Offices (*Kantor Perwakilan Perusahaan Asing* – “KPPA”) can now be registered through the OSS system

The OSS system now also accommodates applications for the KPPA registration (previously, KPPA registration was through the National Single Window System) and the registration of Administrative Branch Offices.

The Merging of Business Licenses

In the event of a merger, the surviving Business Actor can now apply for the merging of the Business Licenses. Based on the data received from the AHU system on the Merger Deed which has been approved by the Minister of Law and Human Rights, the OSS system will issue a Business License for the Merging Business.

The surviving Business Actor must also satisfy the commitments for the Business Licenses and/or Commercial or Operating Permits of the merging company in accordance with the prevailing laws and regulations.

Transitional Provisions

1. Regulations on in-principle licenses, investment registration and investment licenses, Business Licenses, Commercial and/or Operating Licenses remain valid as long as they do not conflict with or are not specifically covered by BKPM Reg. 1/2020.
2. Business Actors who do not yet have a NIB but have a TDP, API, and Customs access that are still valid, have expired, or have data changes, must register for a NIB.
3. Business Actors who obtained a Business License and/or Commercial or Operating License before BKPM Reg. 1/2020 came into force but need a new a Business License or Commercial or Operating License for business development, must apply for the relevant license through the OSS system by providing the relevant data and information.
4. Business Actors who obtained a Business License and/or Commercial or Operating License before GR 24/2018 came into force, must obtain a NIB and register their business activities through the OSS system.

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